



Steve Bellone

SUFFOLK COUNTY EXECUTIVE

Natalie Wright
CommissionerDepartment of Economic Development and Planning
Division of Planning and Environment**STAFF REPORT****SECTIONS A14-14 THRU A14-24 OF THE SUFFOLK COUNTY ADMINISTRATIVE CODE**

Applicant: TBOM BR-1
Municipality: Town of Brookhaven
Location: Southwest corner Yaphank Ave(CR21) and Horseblock Road (CR16)

Received: 7/2/2021
File Number: BR-21-10
T.P.I.N.: 0200 87400 0400 033001
Jurisdiction: 500' County Road CR21 and CR16 and NYS Rte. 27 Sunrise Highway

ZONING DATA

- Zoning Classification: A Residence 1 and L Industrial 1
- Minimum Lot Area (Sq Ft): 40,000sf/ 2acres L Industrial 1
- Section 278: NA
- Obtained Variance: NA

SUPPLEMENTARY INFORMATION

- Within Agricultural District: No
- Shoreline Resource/Hazard Consideration: No
- Received Health Services Approval: No
- Property Considered for Affordable Housing Criteria: No
- Property has Historical/Archaeological Significance: No
- Property Previously Subdivided: No
- Property Previously Reviewed by Planning Commission: No
 - Map Yield: NA
- SEQRA Information: Yes
- SEQRA Type: Unlisted
- Minority or Economic Distressed: Yes

SITE DESCRIPTION

- Present Land Use: vacant/municipal composting activities
- Existing Structures: recycling building
- General Character of Site: rolling
- Range of Elevation within Site: 25ft to 45ft above amsl
- Cover: disturbed land and woods
- Soil Types: Carver, haven and riverhead associations
- Range of Slopes (Soils Map): 0 to 8%
- Waterbodies of Wetlands: Yes NYS DEC E-5

NATURE OF SUBDIVISION/ NATURE OF MUNICIPAL ZONING REQUEST

- Type: Change of zone
- Layout: NA
- Area of Tract (Acres): 137 acres
- Yield Map: NA
 - No. of Lots: NA
 - Lot Area Range (Sq. Ft.): NA
- Open Space (Acres): NA

ACCESS

- Roads: Public
- Driveways: NA

ENVIRONMENTAL INFORMATION

- Stormwater Drainage
 - Design System: N/A
 - Recharge Basins: No
- Groundwater Management Zone: VI
- Water Supply: Public
- Sanitary Sewers: Undetermined

PROPOSAL DETAILS

OVERVIEW

Referral is to rezone, on the Brookhaven Town Boards own motion, approximately 137 acres of land east of the Town of Brookhaven landfill from A 1 Residence and L1 Light Industry to all L1 Industry.

The subject property is located in the North Bellport Census Designated Place and known as part of the Yaphank hamlet. The change of zone property is located at the southwest corner of Yaphank Avenue (CR21) and Horseblock Road (CR 16). The site spans westward to the Town of Brookhaven Yaphank landfill and includes land inclusive of the Town's municipal recycling facility, yard waste reduction and composting operation and areas of relatively undisturbed woodland.

Approximately 85 acres are proposed to be earmarked as surplus by the Town and sold. The bulk of the remaining 53 acres include the municipal recycling facility and some of the yard waste recycling activity.

Potable water would be provided to the site by the Suffolk County Water Authority. The Environmental Assessment Form (EAF) referred to the Suffolk County Planning Commission by the Brookhaven Town Board indicates (pg. 2 item 11) that private on-site [sanitary waste water] systems will be required for any new development resultant of the surplus sale". Sewage treatment plants in the area include the Yaphank County Center to the north east, and Suffolk County Sewer District No. 7 Twelve Pines/Woodside to the west.

The subject property is situated at the eastern terminus of a large swath of residentially zoned land between Woodside Avenue (CR 99)/Horseblock Road (CR16) and Sunrise Highway (NYS Rte. 27). The site is mostly in the A1 Residence District.

Two parcels of the subject change of zone property (0200 87500 0500 002000 & 003000) of approximately 15 acres, at the far eastern end are zoned L1 (Light Industry).

Land to the north of Horseblock Road is predominantly zoned L1 (Light Industry). Land to the east of the subject property that currently abut the east side of Yaphank Avenue are in the A2 residential zoning District. South of the project property on the far side of Sunrise Highway (NYS Rte. 27) land is zoned A2 residential. To the west the zoning designation is primarily A1 Residence.

Land use in the area is generally reflective of the zoning designations. One non-conforming use is the Brookhaven Town Landfill adjacent and to the west of the subject parcels. The Landfill has a Waste Handling and Management land use designation but is zoned A1 Residential. To the north of the subject change of zone properties land zoned L1 Industry is currently in use by the Long Island Compost Corp. and Great Gardens LLC, undergoing large scale composting activities. Also to the north, vacant lands owned by NYS Site Operations LLC has preliminary investigate a municipal solid waste rail transfer activity on site. In addition, a proposed Anaerobic Digester at LI Compost Corp/Great Gardens LLC (SCTM No. 0200 84600 0300 003001) is also under implementation. Land use to the south is a mix of vacant, recreational and residential land use mostly reflective of the zoning. East of the subject properties lands beyond Yaphank Avenue are reflective of the zoning including residential, vacant land and recreational open space. One parcel, east of the proposed change of zone site along Horseblock Road (1000, Horseblock Road), owned by LOCAL 138 A B INT UNITED FUND, consisting of approximately 56.72 acres, is identified by the Brookhaven Town Assessor code as (615) "Other Educational Facilities" and may be considered a commercial use as it is a construction heavy equipment "training facility".

The proposed change of zone project site is located in Hydrogeological zone VI, a deep recharge zone in accordance with Article 6 of the Suffolk County Sanitary Code. Ground water travel time to surface bodies is 2-10 years. The project site is adjacent to the Coastal Zone Area South State designated Critical Environmental Area (CEA) as per the Town of Brookhaven Environmental Assessment Form (EAF) submitted to the Suffolk County Planning Commission as part of the referral but is not in a Special Groundwater Protection Area (SGPA). The subject property is not located in a Suffolk County Pine Barrens zone. There are prime agricultural "Haven Series" soils roughly center of the site. A small NYS DEC regulated fresh water wetland is located at the south west corner of the subject site (NYS DEC B-5) and is a high groundwater expression representing the headwaters of Beaver Dam Creek which flows into Bellport Bay to the south. The property is not in the New York State Carmans River Wild Scenic and Recreational River boundary, but is in the Town of Brookhaven Carmans River Management Plan. It is observed by Suffolk County Planning Commission staff that according to the Town EAF referred to the Suffolk County Planning Commission by the Brookhaven Town Board (page 3 of 3 item 20), that "it should be noted that the area to be re-zoned as well as the surplus area is adjacent to the landfill which has historically accepted various types of waste material and been subject to various orders by NYSDEC related to remediation."

STAFF ANALYSIS

GENERAL MUNICIPAL LAW CONSIDERATIONS: New York State General Municipal Law, Section 239-l provides for the Suffolk County Planning Commission to consider inter-community issues. Included are such issues as compatibility of land uses, community character, public convenience and maintaining a satisfactory community environment.

The existing A1 Residential zoning of the subject property, if improved with single family or other types of diversified housing would be an incompatible land use to the existing Town land fill to the west.

Existing residential development including typical residential support institutions such as schools and recreation areas exist to the northwest, west and south of the existing Town Landfill. These areas have been a steady source of grievances regarding the municipal landfill for decades. Placing additional residential development to the east of the landfill, in the opinion of the Staff of the Suffolk County Planning Commission, would not promote the public convenience of future residents, nor would it maintain a satisfactory community environment. Since the Town of Brookhaven Landfill dominates the area, along with the Town recycling facilities and yard operations, the composting facility, anaerobic digester, waste-to-rail transfer station operations along Horse Block Road that exist or are contemplated in the near future, placing residential development east of the landfill would not promote a reasonable community character for the residential buildout of the intended change of zone properties. The landfill and residential zoning and use are incompatible and conflicting uses.

The North Bellport Census designated Place is described as a potential Environmental Justice Area (EJA) by the New York State Department of Environmental Conservation (NYS DEC). The subject Town of Brookhaven Own Motion change of zone properties are located in the EJA. According to the DEC "Environmental Justice" means "the fair treatment and meaningful involvement of all people regardless of race, color, or income with respect to the development, implementation and enforcement of environmental laws, regulations and policies. Fair treatment means that no group of people, including a racial, ethnic, or socioeconomic group, should bear a disproportionate share of the negative environmental consequences resulting from industrial, municipal, and commercial operations or the execution of federal, state, local and tribal programs and policies. EJA is further defined by "New York State DEC Commissioner Policy 29 Environmental Justice and Permitting."

It is the belief of the staff of the Suffolk County Planning Commission that it would be inappropriate and not best planning practice to see the subject properties fulfill the current zoning designation and develop, as per the as-of-right zoning (A1 Residence), detached single family homes. However, the Environmental Justice designation by NYS DEC evokes considerations regarding any other zoning or uses on the subject property.

LOCAL COMPREHENSIVE PLAN RECOMMENDATIONS: The Town of Brookhaven 1996 Comprehensive Land Use Plan (pg. 243, Plate 21) recommends the proposed change of zone properties, currently zoned A1 Residential, to an Industrial land use. The Plan's Recommended General Regional Zoning Considerations section (pg. 213) states... "In some situations industrial or commercial designations may be superior to residential usage. More to the point, every zoning class should be protected. Just as industrial uses should not negatively encroach on residentially zoned area, the reverse is equally true. The historic practice of allowing housing to invade industrial area is also bad planning."

It is the belief of the Suffolk County Planning Commission Staff that the proposed change of zone to L1 Industry (Light Industry) is consistent with the Town of Brookhaven Comprehensive Plan.

SUFFOLK COUNTY PLANNING COMMISSION GUIDELINE CONSIDERATIONS:

The Suffolk County Planning Commissions has identified six general Critical County Wide Priorities that include:

1. Environmental Protection
2. Energy efficiency
3. Economic Development, Equity and Sustainability
4. Housing Diversity

5. Transportation and
6. Public Safety

These policies are reflected in the Suffolk County Planning Commission Guidebook (unanimously adopted July 11, 2012). Below are items for consideration regarding the above policies:

As noted above, the Environmental Assessment Form (EAF) referred to the Suffolk County Planning Commission by the Brookhaven Town Board indicates (pg. 2 item 11) that private on-site systems will be required for any new development resultant of the surplus sale". Individual Alternative Onsite Wastewater Treatment Systems (I/A OWTS) should be considered. Moreover, a sub-regional or Community treatment system for the proposed park should be investigated. Appendix A systems as outlined in the Suffolk County Sanitary Code as promulgated by the Suffolk County Department of Health Services should also be investigated as a waste water treatment methodology. Finally, considering the Environmental Justice designation of the area including the proposed change of zone site the town may wish to emphasize that no discharge from any use within the surplus area be allowed into the ground at this site and that Sewage treatment plants in the area including the Yaphank County Center to the north east, and Suffolk County Sewer District No. 7 Twelve Pines/Woodside to the west be considered for connection from future uses. The Town should contact the Suffolk County Department of Health Services and Suffolk County Department of Public Works to determine the most appropriate method of sewage treatment and disposal for the uses within the surplus area.

The Town Environmental Assessment Form, with regard to impacts to the small wetland, indicates (pg.2 item 13) that "a vegetated buffer will be maintained in accordance with town and state laws at all times and at this time no new clearing/development is proposed near this wetland. The surplus land will be at a distance in excess of the Town's wetland jurisdiction." Considering that there are still large areas of relatively undisturbed woodland within the targeted area for the change of zone and that the boundary to the Suffolk County Pine Barrens Zone is across Yaphank Avenue, large blocks of undisturbed contiguous open space should be proximate to the Pine Barrens. In accordance with best management practice, and in recognition of the sentiment of the Town of Brookhaven Carmans River Management Plan, no more that 65% of the overall change of zone area should be cleared of naturally occurring vegetation.

The proposed change of zone to L1 Light industrial can be considered, in terms of regional and local comprehensive planning, to be a sound evolution of the land uses east of the Brookhaven Town municipal landfill. Industrial development adjacent to the landfill is logical in order to minimize conflicting land use issues that may arise and maximizes the compatibility of land uses, public convenience and maintaining a satisfactory community environment between the operations of the landfill and new residents to the area.

However, the designation of the area as an Environmental Justice Area, as noted above, makes certain limitations on the uses within the proposed surplus area warranted. It has been noted above that the Brookhaven Landfill, the Long Island Compost Corp., and the Anaerobic Digester at LI Compost Corp/Great Gardens LLC is already concentrated in area. Recognizing this, the Town of Brookhaven has considered prohibiting uses that would normally be permissible by Brookhaven Town Board Special Permit. Included uses are anaerobic digesters, electric generating facilities, airports, and adult uses. Furthermore, the Brookhaven Town Board may wish to consider placing a covenant on the surplus area that no part can be used for "waste management" of any type.

Waste management refers to the various schemes to manage and dispose of wastes. It can be by discarding, destroying, processing, recycling, reusing, or controlling wastes.

On the other hand, the Brookhaven Town Board may wish to consider incentivizing within the surplus land area “Clean Energy” that is 100% pollution-free. Clean energy, often referred to as “renewable energy”, comes from natural sources or processes that are naturally replenished and virtually inexhaustible; sources like the sun, wind and water. Solar farms, wind turbines, geothermal, fuel cells, and battery storage are examples of clean energy technology. While fossil fuel based electric generating facilities should be prohibited in this Environmental Justice area, the term could be amended to allow solar farms, fuel cells and wind turbines or other clean energy industry.

One additional consideration the Town of Brookhaven may wish to contemplate in order to limit potential issues related to Environmental Justice would be to place performance standards on the approval of the surplus land area. The “metrics” could be established on the impacts of the as-of-right use of a residential subdivision of approximately 119 lots (theoretical yield). Thus, the motor vehicle trip generation, waste water discharge, noise, etc. can be set and no action within the surplus land area will be permitted to generate any impact greater than the former as-of-right use of the property may have produced.

STAFF RECOMMENDATION

APPROVAL of the change of zone referral on the Brookhaven Town Board’s own motion (TBOM BR-1, File # 2012-012), on approximately 137 acres of land east of the Town of Brookhaven landfill from A 1 Residence and L1 Light Industry to all L1 Light Industry with the following condition and comments.

Condition:

1. In recognition of the Environmental Justice designation by the NYS DEC, the Town of Brookhaven shall prohibit uses in the new L1 Industry designated surplus land of approx. 85 acres east of the town landfill in Yaphank that would normally be permissible by Brookhaven Town Board Special Permit. Included uses are anaerobic digesters, electric generating facilities, airports, and adult uses. Furthermore, the Brookhaven Town Board shall place a covenant on the surplus land that no part can be used for “waste management” of any type.

Reason: The designation of the subject site as within an Environmental Justice area, makes certain limitations on the uses within the proposed industrial surplus land warranted. It has been noted by the Suffolk County Planning Commission that the Brookhaven Landfill, the Long Island Compost Corp., and the Anaerobic Digester at LI Compost Corp/Great Gardens LLC is already concentrated in this area. Also recognizing this, the Town of Brookhaven has considered prohibiting uses that would normally be permissible by Brookhaven Town Board Special Permit. Regarding “waste management” of any type: waste management refers to the various schemes to manage and dispose of wastes. It can be by discarding, destroying, processing, recycling, reusing, or controlling wastes.

2. In recognition of the Environmental Justice designations in the area by the NYS DEC, the Town of Brookhaven shall not approve the change of zone from A1 Residential and L1 Industry to all L1 Industry on the subject surplus property until the method of wastewater disposal for the surplus land has been investigated and agreed upon with the Suffolk County Department of Health Services.

Reason: The designation of the subject site as within an Environmental Justice area, makes the consideration of the discharge of industrial waste water to the ground warranted at the earliest possible moment. According to the Town Environmental Assessment Form referred to the Suffolk County Planning Commission by the Brookhaven Town Board (page 3 item 20), that “it should be noted that the area to be re-zoned as well as the surplus area is adjacent to the landfill which has historically accepted various types of waste material and been subject to various orders by NYSDEC related to remediation.” The future uses on the proposed surplus land should not compound any existing or potential ground water issues in the area.

Comments:

1. The Brookhaven Town Board may wish to consider incentivizing within the surplus land area “Clean Energy” that is 100% pollution-free. Clean energy, often referred to as “renewable energy”, comes from natural sources or processes that are naturally replenished and virtually inexhaustible; sources like the sun, wind and water. Solar farms, wind turbines, geothermal, fuel cells, and battery storage are examples of clean energy technology. While fossil fuel based electric generating facilities should be prohibited in this Environmental Justice Area, the term could be amended to allow solar farms, fuel cells and wind turbines or other clean energy industry.
2. One additional consideration the Town of Brookhaven may wish to contemplate in order to limit potential issues related to Environmental Justice would be to place performance standards on the approval of the future uses within the surplus land area. The “metrics” could be established on the impacts of the as-of-right use of a residential subdivision of approximately 119 lots (theoretical yield). Thus, the motor vehicle trip generation, waste water discharge, noise, etc. can be set and no action within the surplus land area would be permitted to generate any impact greater than the former as-of-right use of the property may have produced.
3. The Brookhaven Town Board is advised to contact the Suffolk County Department of Public Works for investigative analysis as to access and installation of any improvements and/or traffic controls along Horse Block Road (CR 16) and Yaphank Avenue (CR 21). A Traffic Impact Assessment (TIA) prepared by the town would be useful in providing necessary data on trip generation and turn movements to, from and around the surplus land.
4. No more that 65% of the overall change of zone area should be cleared of naturally occurring vegetation. Considering that there are still large areas of relatively undisturbed woodland within the targeted change of zone area and that the boundary to the Suffolk County Pine Barrens Zone is across Yaphank Avenue, large blocks of undisturbed contiguous open space should be proximate to the Pine Barrens. In accordance with best management practice, and in recognition of the sentiment of the Town of Brookhaven Carmans River Management Plan, no more that 65% of the overall change of zone area should be cleared of naturally occurring vegetation.
5. The Brookhaven Town Board should review the Suffolk County Planning Commission publication on Managing Stormwater-Natural Vegetation and Green Methodologies and incorporate any proposal within the surplus land area, where practical, design elements contained therein.

<https://www.suffolkcountyny.gov/portals/0/formsdocs/planning/SCPlanningCommission/2015/Managing%20Stormwater.pdf>

6. The Brookhaven Town Board should be encouraged to review the Suffolk County Planning Commission Guidebook particularly with respect to energy efficiency and incorporate where practical, applicable elements contained therein on any proposed use of the surplus land area. Large industrial buildings should be designed to accommodate rooftop solar during initial occupancy or in the future.

<https://www.suffolkcountyny.gov/portals/0/formsdocs/planning/Publications/SCPCguidebk12r%206-30-20.pdf>

7. The Brookhaven Town Board should be encouraged to review the Suffolk County Planning Commission Guidebook particularly with respect to public safety and universal design and incorporate where practical, applicable elements contained therein.

8. Recognition of the Suffolk County designated Prime Farm Soils occurring on site is warranted and an effort to incorporate options for community gardening or other appropriate uses of the farm soil should be included in planning amenities for the surplus land.



